

AMENDED IN ASSEMBLY JUNE 20, 2016

AMENDED IN SENATE JANUARY 4, 2016

SENATE BILL

No. 745

Introduced by Senator Hueso

February 27, 2015

An act to amend Sections 281 and 914.7 of the Public Utilities Code, relating to ~~telecommunications~~, *telecommunications*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 745, as amended, Hueso. Telecommunications: universal service: California Advanced Services Fund.

Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The universal service principles include the principle that consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas. The act authorizes each state to adopt regulations to provide for additional definitions and standards to preserve and advance universal service within the state, only to the extent that they adopt additional specific, predictable, and sufficient mechanisms

that do not rely on or burden federal universal service support mechanisms.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, as defined. Existing law establishes the California Advanced Services Fund, referred to as the CASF, in the State Treasury. Existing law requires the commission to develop, implement, and administer the CASF to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies, as provided in specified decisions of the commission and in the CASF statute. ~~Existing~~

Existing law establishes the Rural and Urban Regional Broadband Consortia Grant Account within the CASF. Existing law provides that moneys in the Rural and Urban Regional Broadband Consortia Grant Account are available for grants to eligible consortia to fund the cost of broadband deployment activities other than the capital cost of facilities, as specified by the commission, and provides that an eligible consortium may include representatives of organizations, including local and regional government, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, and business.

This bill would specifically include representatives of workforce organizations and air pollution control or air quality management districts amongst the persons that can be included in an eligible consortium.

Existing law establishes the Broadband Public Housing Account within the CASF. Existing law provides that moneys in that account are available for, among other things, grants and loans to publicly supported communities to finance projects to connect to broadband networks.

This bill would require the commission, in its review of applications for grants and loans for this purpose, to prioritize unwired housing developments and provide that a wired housing development would be an eligible applicant only if the commission determines that the project would provide broadband Internet service at no greater cost for comparable speed and quality than is commercially available before the project.

Existing law transferred moneys from other accounts within the CASF to the Broadband Public Housing Account for various specified purposes and provided those transferred moneys not awarded by December 31, 2016, would be returned to the accounts from which they were transferred.

This bill would extend that date until December 31, 2020. By authorizing the granting of moneys remaining in the Broadband Public Housing Account until that date, this bill would make an appropriation.

Existing law requires the commission to annually report to the Legislature on the expenditures of CASF funds, as specified, including the geographic regions of the state affected by those expenditures in the prior year.

This bill would require the commission's report to the Legislature to include that information by county and ~~to include~~ details on efforts to leverage non-CASF ~~funds. funds,~~ the status of each project funded through the CASF, whether the project has been completed, and, if applicable, the expected completion date of the project.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 281 of the Public Utilities Code is
- 2 amended to read:
- 3 281. (a) The commission shall develop, implement, and
- 4 administer the California Advanced Services Fund program to
- 5 encourage deployment of high-quality advanced communications
- 6 services to all Californians that will promote economic growth,
- 7 job creation, and the substantial social benefits of advanced
- 8 information and communications technologies, consistent with
- 9 this section.
- 10 (b) (1) The goal of the program is, no later than December 31,
- 11 2015, to approve funding for infrastructure projects that will
- 12 provide broadband access to no less than 98 percent of California
- 13 households.
- 14 (2) In approving infrastructure projects, the commission shall
- 15 give priority to projects that provide last-mile broadband access
- 16 to households that are unserved by an existing facilities-based
- 17 broadband provider. The commission shall provide each applicant,
- 18 and any party challenging an application, the opportunity to

1 demonstrate actual levels of broadband service in the project area,
2 which the commission shall consider in reviewing the application.

3 (c) The commission shall establish the following accounts within
4 the fund:

5 (1) The Broadband Infrastructure Grant Account.

6 (2) The Rural and Urban Regional Broadband Consortia Grant
7 Account.

8 (3) The Broadband Infrastructure Revolving Loan Account.

9 (4) The Broadband Public Housing Account.

10 (d) (1) All moneys collected by the surcharge authorized by
11 the commission pursuant to Decision 07-12-054 shall be
12 transmitted to the commission pursuant to a schedule established
13 by the commission. The commission shall transfer the moneys
14 received to the Controller for deposit in the California Advanced
15 Services Fund. Moneys collected on and after January 1, 2011,
16 shall be deposited in the following amounts in the following
17 accounts:

18 (A) One hundred ninety million dollars (\$190,000,000) into the
19 Broadband Infrastructure Grant Account.

20 (B) Fifteen million dollars (\$15,000,000) into the Rural and
21 Urban Regional Broadband Consortia Grant Account.

22 (C) Ten million dollars (\$10,000,000) into the Broadband
23 Infrastructure Revolving Loan Account.

24 (2) All interest earned on moneys in the fund shall be deposited
25 in the fund.

26 (3) The commission shall not collect moneys, by imposing the
27 surcharge described in paragraph (1) for deposit in the fund, in an
28 amount that exceeds one hundred million dollars (\$100,000,000)
29 before January 1, 2011. On and after January 1, 2011, the
30 commission may collect an additional sum not to exceed two
31 hundred fifteen million dollars (\$215,000,000), for a sum total of
32 moneys collected by imposing the surcharge described in paragraph
33 (1) not to exceed three hundred fifteen million dollars
34 (\$315,000,000). The commission may collect the additional sum
35 beginning with the calendar year starting on January 1, 2011, and
36 continuing through the 2020 calendar year, in an amount not to
37 exceed twenty-five million dollars (\$25,000,000) per year, unless
38 the commission determines that collecting a higher amount in any
39 year will not result in an increase in the total amount of all
40 surcharges collected from telephone customers that year.

1 (e) (1) All moneys in the California Advanced Services Fund
2 shall be available, upon appropriation by the Legislature, to the
3 commission for the program administered by the commission
4 pursuant to this section, including the costs incurred by the
5 commission in developing, implementing, and administering the
6 program and the fund.

7 (2) Notwithstanding any other law and for the sole purpose of
8 providing matching funds pursuant to the federal American
9 Recovery and Reinvestment Act of 2009 (Public Law 111-5), any
10 entity eligible for funding pursuant to that act shall be eligible to
11 apply to participate in the program administered by the commission
12 pursuant to this section, if that entity otherwise satisfies the
13 eligibility requirements under that program. Nothing in this section
14 shall impede the ability of an incumbent local exchange carrier,
15 as defined by subsection (h) of Section 251 of Title 47 of the
16 United States Code, that is regulated under a rate of return
17 regulatory structure, to recover, in rate base, California
18 infrastructure investment not provided through federal or state
19 grant funds for facilities that provide broadband service and
20 California intrastate voice service.

21 (3) Notwithstanding subdivision (b) of Section 270, an entity
22 that is not a telephone corporation shall be eligible to apply to
23 participate in the program administered by the commission pursuant
24 to this section to provide access to broadband to an unserved or
25 underserved household, as defined in commission Decision
26 12-02-015, if the entity otherwise meets the eligibility requirements
27 and complies with program requirements established by the
28 commission. These requirements shall include all of the following:

29 (A) That projects under this paragraph provide last-mile
30 broadband access to households that are unserved by an existing
31 facilities-based broadband provider and only receive funding to
32 provide broadband access to households that are unserved or
33 underserved, as defined in commission Decision 12-02-015.

34 (B) That funding for a project providing broadband access to
35 an underserved household shall not be approved until after any
36 existing facilities-based provider has an opportunity to demonstrate
37 to the commission that it will, within a reasonable timeframe,
38 upgrade existing service. An existing facilities-based provider
39 may, but is not required to, apply for funding under this section to
40 make that upgrade.

1 (C) That the commission shall provide each applicant, and any
2 party challenging an application, the opportunity to demonstrate
3 actual levels of broadband service in the project area, which the
4 commission shall consider in reviewing the application.

5 (D) That a local governmental agency may be eligible for an
6 infrastructure grant only if the infrastructure project is for an
7 unserved household or business, the commission has conducted
8 an open application process, and no other eligible entity applied.

9 (E) That the commission shall establish a service list of
10 interested parties to be notified of California Advanced Services
11 Fund applications.

12 (f) Moneys in the Rural and Urban Regional Broadband
13 Consortia Grant Account shall be available for grants to eligible
14 consortia to fund the cost of broadband deployment activities other
15 than the capital cost of facilities, as specified by the commission.
16 An eligible consortium may include, as specified by the
17 commission, representatives of organizations, including, but not
18 limited to, local and regional government, public safety, elementary
19 and secondary education, health care, libraries, postsecondary
20 education, community-based organizations, tourism, parks and
21 recreation, agricultural, business, workforce organizations, and air
22 pollution control or air quality management districts, and is not
23 required to have as its lead fiscal agent an entity with a certificate
24 of public convenience and necessity.

25 (g) Moneys in the Broadband Infrastructure Revolving Loan
26 Account shall be available to finance capital costs of broadband
27 facilities not funded by a grant from the Broadband Infrastructure
28 Grant Account. The commission shall periodically set interest rates
29 on the loans based on surveys of existing financial markets.

30 (h) (1) For purposes of this subdivision, the following terms
31 have the following meanings:

32 (A) “Publicly subsidized” means either that the housing
33 development receives financial assistance from the United States
34 Department of Housing and Urban Development pursuant to an
35 annual contribution contract or is financed with low-income
36 housing tax credits, tax-exempt mortgage revenue bonds, general
37 obligation bonds, or local, state, or federal loans or grants and the
38 rents of the occupants, who are lower income households, do not
39 exceed those prescribed by deed restrictions or regulatory

1 agreements pursuant to the terms of the financing or financial
2 assistance.

3 (B) “Publicly supported community” means a publicly
4 subsidized multifamily housing development that is wholly owned
5 by either of the following:

6 (i) A public housing agency that has been chartered by the state,
7 or by any city or county in the state, and has been determined to
8 be an eligible public housing agency by the United States
9 Department of Housing and Urban Development.

10 (ii) An incorporated nonprofit organization as described in
11 Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec.
12 501(c)(3)) that is exempt from taxation under Section 501(a) of
13 that code (26 U.S.C. Sec. 501(a)), and that has received public
14 funding to subsidize the construction or maintenance of housing
15 occupied by residents whose annual income qualifies as “low” or
16 “very low” income according to federal poverty guidelines.

17 (2) Notwithstanding subdivision (b) of Section 270, moneys in
18 the Broadband Public Housing Account shall be available for the
19 commission to award grants and loans pursuant to this subdivision
20 to an eligible publicly supported community if that entity otherwise
21 meets eligibility requirements and complies with program
22 requirements established by the commission.

23 (3) (A) Not more than twenty million dollars (\$20,000,000)
24 shall be available for grants and loans to a publicly supported
25 community to finance a project to connect a broadband network
26 to that publicly supported community. A publicly supported
27 community may be an eligible applicant only if the publicly
28 supported community can verify to the commission that the
29 publicly supported community has not denied a right of access to
30 any broadband provider that is willing to connect a broadband
31 network to the facility for which the grant or loan is sought.

32 (B) (i) *In its review of applications received pursuant to*
33 *subparagraph (A), the commission shall prioritize unwired housing*
34 *developments. A wired housing development shall be an eligible*
35 *applicant only if the commission determines that the project would*
36 *provide broadband Internet service at no greater cost for*
37 *comparable speed and quality than is commercially available*
38 *before the project.*

39 (ii) *For purposes of this subparagraph, a housing development*
40 *is wired when it is possible to subscribe to a commercially*

1 *available broadband Internet service, such as Digital Subscriber*
2 *Line (DSL), cable modem, or another protocol, utilizing existing*
3 *wired facilities. A housing development is unwired when at least*
4 *one housing unit within the housing development is not wired.*

5 (4) (A) Not more than five million dollars (\$5,000,000) shall
6 be available for grants and loans to a publicly supported community
7 to support programs designed to increase adoption rates for
8 broadband services for residents of that publicly supported
9 community. A publicly supported community may be eligible for
10 funding for a broadband adoption program only if the residential
11 units in the facility to be served have access to broadband services
12 or will have access to broadband services at the time the funding
13 for adoption is implemented.

14 (B) A publicly supported community may contract with other
15 nonprofit or public agencies to assist in implementation of a
16 broadband adoption program.

17 (5) To the extent feasible, the commission shall approve projects
18 for funding from the Broadband Public Housing Account in a
19 manner that reflects the statewide distribution of publicly supported
20 communities.

21 (6) In reviewing a project application under this subdivision,
22 the commission shall consider the availability of other funding
23 sources for that project, any financial contribution from the
24 broadband service provider to the project, the availability of any
25 other public or private broadband adoption or deployment program,
26 including tax credits and other incentives, and whether the applicant
27 has sought funding from, or participated in, any reasonably
28 available program. The commission may require an applicant to
29 provide match funding, and shall not deny funding for a project
30 solely because the applicant is receiving funding from another
31 source.

32 (7) (A) To provide funding for the purposes of this subdivision,
33 the commission shall transfer to the Broadband Public Housing
34 Account twenty million dollars (\$20,000,000) from the Broadband
35 Infrastructure Grant Account and five million dollars (\$5,000,000)
36 from the Broadband *Infrastructure* Revolving Loan Account. Any
37 moneys in the Broadband Public Housing Account that have not
38 been awarded pursuant to this subdivision by December 31, ~~2016,~~
39 ~~2020,~~ shall be transferred back to the Broadband Infrastructure
40 Grant Account and Broadband Infrastructure Revolving Loan

1 Account in proportion to the amount transferred from the respective
2 accounts.

3 (B) The commission shall transfer funds pursuant to
4 subparagraph (A) only if the commission is otherwise authorized
5 to collect funds for purposes of this section in excess of the total
6 amount authorized pursuant to paragraph (3) of subdivision (d).

7 SEC. 2. Section 914.7 of the Public Utilities Code is amended
8 to read:

9 914.7. (a) ~~By January~~ *April* 1 of each year, the commission
10 shall provide a report to the Legislature that includes all of the
11 following information:

12 (1) The amount of funds expended from the California Advanced
13 Services Fund in the prior year.

14 (2) The recipients of funds expended from the California
15 Advanced Services Fund in the prior year.

16 (3) ~~The geographic regions, including information by county,~~
17 *regions* of the state affected by funds expended from the California
18 Advanced Services Fund in the prior ~~year~~. *year, including*
19 *information by county.*

20 (4) The expected benefits to be derived from the funds expended
21 from the California Advanced Services Fund in the prior year.

22 (5) *Details on the status of each project funded through the*
23 *California Advanced Service Fund, whether the project has been*
24 *completed, and, if applicable, the expected completion date of the*
25 *project.*

26 ~~(5)~~
27 (6) Actual broadband adoption levels from the funds expended
28 from the California Advanced Services Fund in the prior year.

29 ~~(6)~~
30 (7) The amount of funds expended from the California Advanced
31 Services Fund used to match federal funds.

32 ~~(7)~~
33 (8) Additional details on efforts to leverage non-California
34 Advanced Services Fund funds.

35 ~~(8)~~
36 (9) An update on the expenditures from the California Advanced
37 Services Fund and broadband adoption levels, and an accounting
38 of remaining unserved and underserved households and areas of
39 the state.

40 ~~(9)~~

1 (10) The status of the California Advanced Services Fund
2 balance and the projected amount to be collected in each year
3 through 2020 to fund approved projects.

4 (b) Pursuant to Section 10231.5 of the Government Code, this
5 section is repealed on January 1, ~~2021~~. 2022.

O